

Remarks

Claim Rejections - 35 USC 102(b)

Claims 2, 4, 6, 7, 11 and 13 stand rejected as being anticipated by King.

Valid rejection under 35 USC 102 requires that each feature of a rejected claim be disclosed in a single reference. "For anticipation under 35 USC 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present." MPEP 706.02(a)

Claim Rejections - 35 USC 103

Claims 3, 5 and 12 stand rejected as being unpatentable over King.

To clarify the structure of the invention and the difference to the structure of the slicing machine of King we added a further feature which defines "the side of the knife carrier" to specify "which is on the side of the operator".

This is disclosed in the specification on page 9, lines 9 to 12 (PCT: page 8, line 28 to 32). There it is mentioned that the produced section is lying on the back face of the knife: "This gap width is at the same time sufficient for the section taken from the specimen (12) to be able to slide through this gap between the plate (11) and the back face of the knife (3) and to remain lying on the freely accessible back face of the knife (3)."

On page 2, lines 5 to 6 (PCT: page 1, at the bottom) it is said : "The knife carriers and knife holders have as their main purpose to stably clamp the respective cutting tool...". It he drawings (Figs. 1, 2, 3a, 3b, 5, 7a, 7b) it is shown that the cutting knife (3, 37) is on the operating side and Fig.1 shows that the knife carrier is also on the operating side. There the knife (3) "is clamped firmly between the receiving member (2) and the clamping plate (4)...".

The above mentioned description reveals that the section lies on the back face of the knife. It reveals further that the knife carrier with the knife is on the operating side, from which the operator has to pick up the section. Due to that the invention “has its object to provide a knife holder with a guard against cutting injuries which is ... effective during ... section removal” (page 4, lines 5 et seq. (PCT: page 3, third chapter). Therefore it is clear that the side of the knife carrier is the side of the operator. This fact is obvious for a person who is skilled in the art of microtomes. That is the reason why it was not explicitly mentioned in the description.

With these changes amended claim 13 reads:

A knife assembly for a microtome having a cutting plane, in which, in a cutting stroke for section production, a specimen with a specimen holder moves relative to a knife edge, comprising:

- a knife having a cutting edge and a back face,
- a knife carrier, and
- a blade guard comprising a plate, said blade guard having an operating position, wherein said plate is arranged in such a way that performance of cutting operations and section removal takes place even with the plate situated in its operating position by an arrangement of the plate in its operating position parallel to the cutting plane, on the side of the knife carrier, which is on the side of the operator remote from the specimen holder and the specimen received on the specimen holder, and at the same time the plate faces the cutting edge of the knife with a small gap in the cutting direction between the cutting edge of the knife and the edge of the plate toward the knife with a maximum width chosen such that the joint of a person's finger cannot come into contact with the cutting edge of the knife – in order to prevent unintentional gripping of the knife edge – but sufficient for a

section taken from the specimen to be able to slide through said small gap between the plate and the back face of the knife.

The newly amended claim clarifies that there is an essential difference between the structure of the invention and the structure of the slicing machine of King.

King says that the infeed table 40 is to let rest the lower edge of the workpiece 32. Therefore the purpose of the infeed table 40 is to give the workpiece 32 its operating position. This operating position has to be lower (that means far away from the operator) than the cutting blade 48 and the cutting path 49 because this distance determines the thickness of the produced slices 82.

Therefore, the infeed table 40 does not guard against cutting injuries. If the operator accidentally puts his fingers into the machine (when the carriage is in a position that enables fingers to be put into the machine), it is possible that the fingers will be cut in slices in the same way as the above mentioned workpiece 32. The invention of King relates to the slice stacker of the machine. The sliding machine has a structure much like the well known slicing machines which are used by any butcher to slice sausages. With the drawings of the invention and the prior art, King shows that the carriage is made in a way that injuries are prevented. But this is a different solution of the problem than as written in the present application.

In claim 13 of the present application, the specimen does not rest or adjoin to the plate (11) because the plate is remote from the specimen (12). A person skilled in the art of microtomes knows that the working place of the operator is in front of the microtome looking at the plane of section of the specimen. Therefore "remote from the specimen" means that the plate is situated between the operator and the specimen. The plate is also situated between the cutting plane and the operator. This is also disclosed in the present application in the above said way.

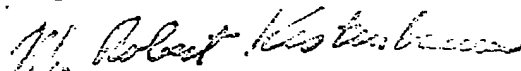
Because of the position of the plate in front of the cutting plane and a further gap between the edge of the plate and the cutting edge, which is too small for passing through with a finger, the operator cannot reach the cutting edge with his fingers. In this way the plate protects against injuries.

Looking upon King's slicing machine from the side of the operator the plate is situated behind the cutting edge and the cutting plane. Therefore the operator can reach the cutting edge independently of the width of the gap between the cutting edge and the plate. That is the reason why the structure of the plate 40 of King cannot avoid injuries.

The result of these facts is that the claimed structure of the invention and the structure of King's machine are different. Furthermore, the purpose as well as the function are also different. Therefore the invention cannot be unpatentable over King.

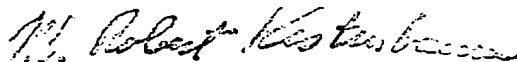
Please further consider and allow the claims as now further amended.

Respectfully submitted,



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I hereby certify this correspondence is being submitted to Commissioner for Patents, Washington, D.C. 20231 by facsimile transmission on March 10, 2005, fax number (703) 872-9306.



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